

SI-392(RC)
99-4361-M/M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CARLOS A. GARCIA PEREZ, et al

Plaintiffs

VS.

ALVARO SANTAELLA, M.D., et als

Defendants

ASHFORD PRESBYTERIAN
COMMUNITY HOSPITAL

Third party Plaintiff

v.

DRA MARIA T. CASADO, et als

Third Party Defendants.

_____*

ANSWER TO AMENDED COMPLAINT

Comes now Dra. Mildred D. Quiñones Pardo, through his undersigned attorney, and to this Honorable Court respectfully allege and pray:

I. INTRODUCTION

1. This paragraph does not requires a responsive pleading from the appearing third party defendant insofar the same makes a reference to the procedural history of the genesis of this complaint and the ensuing third party complaint. If a response is required, the same is denied.

II. THE PARTIES

2. Paragraph one [1] of this subsection is admitted.

3. Paragraphs two [2] to eight [8] of this subsection are neither admitted nor denied since they do not refer to the appearing codefendant.

4. From paragraph nine [9] is admitted that Dr. Mildred Quiñones is a resident of Puerto Rico and that she provided care to the quadruplets born at Ashford. The rest of the paragraph is denied as stated.

5. Paragraphs ten [10] to fifteen [15] are neither admitted nor denied inasmuch it does not refers to the appearing codefendant.

III JURISDICTION AND VENUE

6. From paragraph sixteen [16] it is admitted that the jurisdictional issue as to diversity of citizenship being challenged and decided in favor of jurisdiction is not contested by the appearing codefendant. The issue of the amount in controversy as to some of the plaintiffs is an issue of law that at this is contested by the appearing codefendant..

7. Paragraph seventeen [17] is admitted.

8. Paragraph eighteen [18] does not requires a responsive pleading from the appearing codefendant.

IV THE ALLEGED FACTS

9. Paragraph nineteen [19] does not requires a responsive pleading from the appearing codefendant.

10. Paragraphs twenty [20] to twenty-two [22] are neither admitted nor denied inasmuch it does not refers to the appearing codefendant.

11. Paragraph twenty-three [23] is admitted.

12. Paragraph twenty-four [24] is denied as stated.

13. Paragraphs twenty-five [25] and twenty-six [26] are neither admitted nor denied inasmuch it does not refers to the appearing codefendant.

14. Paragraph twenty-seven [27] is admitted.
15. Paragraph twenty-eight [28] is denied as stated.
16. Paragraph twenty-nine [29] is denied as to the appearing codefendant.
17. Paragraph thirty [30] is denied as to the appearing codefendant.
18. Paragraphs thirty-one [31] to thirty-three [33] is denied as to the appearing codefendant.
19. Paragraphs thirty-four [34] to thirty-eight [38] are denied for lack of knowledge and information sufficient to form a belief as to the truth of the averment.

ALLEGED CLAIM FOR RELIEF

20. Paragraph thirty-nine [39] does not requires a responsive pleading from the appearing codefendant.
21. Paragraph forty [40], forty-one [41] and forty-two [42] are legal statements that do not requires a responsive pleading from the appearing codefendant. If a response is deemed required the same is denied.
22. Paragraphs forty-three [43] and forty-four [44] are denied as to the appearing codefendant.
23. Paragraphs forty-five [45] and forty-six [46] are neither admitted nor denied since they do not refer to the appearing codefendant.
24. Paragraph forty-seven [47] is denied as to the appearing codefendant.
25. Paragraph forty-eight [48] is neither admitted nor denied since it does not refers to the appearing codefendant.
26. Paragraph forty-nine [49] is denied.
27. Paragraphs fifty [50] to fifty-three [53] are denied for lack of knowledge and information sufficient to form a belief as to the truth of the averment.

28. Paragraphs fifty-four [54] and fifty-five [55] are legal conclusions that are not applicable to the appearing codefendant.

AFFIRMATIVE DEFENSES

1. The amended complaint fails to state a claim against the appearing party upon which relief can be granted.

2. The present amended complaint might be barred by the applicable statute of limitations.

3. The appearing party did not incur in negligence.

4. There is no causal relationship between the alleged acts or omissions of the appearing party and the damages claimed by the third party plaintiffs.

5. According to the allegations in the complaint, the alleged damages were caused by other co-defendants and/or third parties for whose actions the appearing party is not liable as a matter of law.

6. If a mistake was made in relation to the diagnosis or treatment of this patient, which appearing third party defendant denies, it was an honest mistake in judgment and therefore, the appearing third party defendant is shield from liability as alleged.

7. This court lacks jurisdiction to entertain the present cause of action.

8. There is not joint liability between the parties.

9. The appearing defendant reserves the right to seek leave to amend the answer to this complaint and/or raise any additional affirmative defenses that might arise from the discovery to be executed in the case at bar.

WHEREFORE, it is respectfully requested from this Honorable Court that the complaint be dismissed as it pertains to the appearing party and that costs, expenses and attorneys' fees be imposed upon plaintiffs.

I CERTIFY: That on this same date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing following attorneys to their corresponding electronic mail addresses: Andres Guillemard Noble and Joan Peters, Raphael Peña Ramon, Igor Domínguez, Doris Quiñones Tridas, Pedro J. Cordova, Pedro Toledo González, Jose Hector Vivas, Alexis Mattei Barrios, Jaime Sifre Rodríguez, Ricardo Rodríguez Padilla

In San Juan, P.R., this 6th day of October, 2004.

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